

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT BOLUS,	:	Civil No. 3:23-CV-1378
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
BRIAN BOLUS, et al.,	:	(Magistrate Judge Carlson)
	:	
Defendant.	:	

MEMORANDUM AND ORDER

The background of this order is as follows:

The plaintiff commenced this action by filing a complaint. (Doc. 1.) The defendants then filed a motion to dismiss the complaint. (Doc. 9.) The plaintiff has now filed an amended complaint. (Doc. 14.) Rule 15(a) of the Federal Rules of Civil Procedure, which governs amendment of pleadings strongly favors amendment of pleadings, permits an amendment as a matter of course in response to a motion to dismiss and otherwise provides that such leave to amend should be liberally granted “when justice so requires.” Fed. R. Civ. P. 15(a)(2).

Accordingly, IT IS ORDERED as follows:

1. The plaintiff’s proposed amended complaint, (Doc. 14), will be lodged by the clerk as the amended complaint in this matter.

2. We believe that this development has substantive significance for the parties with respect to the pending motion to dismiss the original complaint filed by Navient since, as a matter of law, an amended complaint takes the place of the original complaint, effectively invalidating the original complaint. Crysen/Montenay Energy Co. v. Shell Oil Co. (In re Crysen/Montenay Energy Co.), 226 F.3d 160, 162 (2d Cir. 2000) ("[A]n amended pleading ordinarily supersedes the original and renders it of no legal effect"); see 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice & Procedure § 1476 (2d ed. 1990) ("A pleading that has been amended ... supersedes the pleading it modifies.... Once an amended pleading is interposed, the original pleading no longer performs any function in the case..."). Therefore, since Sereyka's initial complaint is now a legal nullity the defendant's motion to dismiss that initial complaint, (Doc. 9), is DISMISSED as moot.

3. However, this leave to amend is granted without prejudice to the assertion of any defenses or dispositive motions that the defendants may believe are appropriate with respect to the amended complaint.

SO ORDERED, this 21st day of March 2024.

/s/ Martin C. Carlson
Martin C. Carlson
United States Magistrate Judge